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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA  
2010 OCT 29 PM 4:37  
JEANNE HICKS, CLERK  
BY: B. Chamberlain

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI**

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN DEMOCKER,

Defendant

V1300CR201080461

**REQUEST FOR DISCLOSURE**

**(Hon. Division 6)**

This Request for the following items of discovery is made pursuant to Rule 15.1,  
Arizona Rules of Criminal Procedure, and Brady v. Maryland, 373 U.S. 83 (1963)<sup>1</sup>.

- 1) **COMPLETE DISCLOSURE**: All law enforcement reports not yet disclosed or logged into evidence, or relevant reports that have been requested by Counsel.
  - a) It is specifically requested that the state contact law enforcement and lab officials to attempt to marshal all pending reports. Rule 15.1(e)(3).
- 2) **PRESERVATION OF EVIDENCE**: The defense specifically requests that the state preserve all RECORDINGS, STATEMENTS, and EVIDENCE including, but not

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1. In order to comply with Brady, "the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police." Kyles v. Whitley, 514 U.S. 419 (1995), Strickler v. Greene, 527 U.S. 263 (1999).

In Brady, the Court held "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." The Court has since held that the duty to disclose such evidence is applicable even though there has been no request by the accused, U. S.v. Agurs, 427 U.S. 97 (1976), and that the duty encompasses impeachment evidence as well as exculpatory evidence. U.S.v. Bagley, 473 U.S. 667 (1985). Moreover, the rule encompasses evidence "known only to police investigators and not to the prosecutor."

limited to:

- a) All of the Defendant's statements made to law enforcement or any other person, including but not limited to: statements which were not recorded, statements which were recorded (transcribed or not), hand-written statements. This request specifically includes any "confrontation calls" and a log of such calls.
- b) All of the victim(s) statements to law enforcement or any other person, including but not limited to: statements which were not recorded, statements which were recorded (transcribed or not), hand-written statements. The defense specifically requests copies of written statements, or notes by the state from the victim(s) regarding a demand to proceed to trial without a plea bargain.

**The Defendant specifically requests that the state contact any purported "victims," with respect to this matter, for purposes of scheduling a defense interview. The Defendant requests copies of all correspondence between the state and the alleged victim in which the alleged victim reportedly refuses an interview. This request specifically includes any handwritten notes or recordings which memorialized any conversations between any state agent (i.e "Victim Witness" coordinator) and the alleged victim.**

- c) The names and addresses of all known **witnesses** to the event(s) charged and/or all witnesses with any knowledge about said event(s), and those witnesses' statements to law enforcement or any other person, including but not limited to: statements which were not recorded, statements which were recorded (transcribed or not), hand-written statements.
- d) **911 RECORDINGS** as required by Rule 15.1 (e).
- e) Any state-generated video or audio tapes, surveillance tapes. Rule 15.1 (b)(9).
- f) Any video or audio tape recordings, possessed by the state, which were made by a private citizen, including **surveillance tapes**.
- g) Any search warrants. (Search or Arrest, etc.) Rule 15.1 (b)(10).
- h) **Any physical evidence seized**. (Including any vehicles, blood, urine, etc.). Rule 15.1 (b).
- i) All *dispatch logs* and *specifically all dispatch recordings*. This request also encompasses any calls made by an officer from a cell phone into dispatch.

The Defendant specifically requests that the state preserve and make available for our immediate inspection and reproduction, if necessary, any and all recording of radio dispatch communications **for at least three hours prior to and after the stop and/or arrest of the Defendant**. Please also forward a copy of this Request to law enforcement **to prevent the loss or destruction** of the recorded communications or any other evidence which may prove the innocence of the Defendant or that the Defendant's constitutional rights were violated.

- 3) **AN EXACT LIST OF WITNESSES** the state intends to call at trial, together with addresses and contact information. Rule 15.1 (b)(1):<sup>2</sup> A "witness" for purposes of this Request is any individual considered by the State to be a potential or disclosed witness: lay witnesses, medical personnel, law enforcement officers, correctional officers, prosecutors, state's expert witnesses, or any other agent of the state involved in the case.
- a) All statements must be disclosed, including the handwritten notes by any agent of the State.
  - b) Required disclosure specifically includes any writing contained *within the officer(s)' files*, which was not logged into evidence, and/or otherwise not disclosed to the Defense. The prosecution has an affirmative duty to know all materials possessed by law enforcement, especially exculpatory evidence, and to disclose it.
  - c) The *statements of ALL persons who have been interviewed*<sup>3</sup> by any law enforcement agent in connection with the subject matter of this case, whether or not the state presently intends to call such witness to testify at trial or any hearing involved in this case. Disclosure must include any "summaries" or "memoranda," if any, concerning interviews or statements of all witnesses, including law enforcement officials, regarding any aspect of the case against the Defendant. Rules 15.1 (b) 15.1(e); 15.6, see also: Brady v. Maryland, 373 U.S. 83 (1963).
  - d) The names of all of the state's lay witnesses, including nicknames or former names, if known, whether case-in-chief or rebuttal witnesses, together with their written, recorded or oral statements and/or summaries thereof. Smith v. Illinois, 390 U.S. 129 (1968)
  - e) Disclosure must include whether a state's witness has been in prison, or any other custody. Brady, supra.
  - f) All information that any witness(es) may have been using any drug or alcohol at the time of the alleged event. This information may tend to discredit the state's witness(es)' ability to observe, retain memory or such observations, and recollect prior experience with clarity. Brady, supra; Giglio v. United States, 405 U.S. 150 (1972); United States v. Atkinson, 512 F.2d 1235 (4<sup>th</sup> Cir. 1975).
  - g) State's witness(es) known associations with drug dealers and/or users.<sup>4</sup> This includes any information from D.P.S., local law enforcement agencies in Yavapai County, or any federal law enforcement agency. This specifically includes any

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2. See generally: Brady, supra; Strickland v. Washington, 466 U.S. 668, (1984), United States v. Harris, 543 F.2d 1247 (9<sup>th</sup> Cir. 1976); United States v. Johnson, 521 F.2d 1318 (9<sup>th</sup> Cir. 1975); United States v. Sanchez, 635 F.2d 47 (D.C. Cir. 1975); United States v. Sanchez, 635 F.2d 47 (1980). Rule 15.1.

3. Including all recordings, memorandum, or summaries of any oral statement(s) made to an agent of the State by any person in connection with the subject matter of this case.

4. Brady, Agurs, Bagley, supra.

information contained *within the officers' files*.

- h) Law Enforcement Personnel: The names and contact information for all law enforcement investigating personnel, including undercover agents or drug "task force" agents, associated with this case, however minimal their involvement in the case.

- 4) **LAB TEST RESULTS**: of any and all "evidence" seized by law enforcement.
- 5) **EXACT LIST OF PHYSICAL EVIDENCE**: A list of all papers, documents, photographs, or any other tangible objects which the state will attempt to use at trial. Rule 15.1 (b)(5), and an opportunity for the Defense to inspect, photograph and examine all evidence seized by the state.
- 6) **DISCLOSURE OF CRIMINAL RECORDS**<sup>5</sup> of each prospective state witness.  
Rule 15.1 (d).  
In relation to criminal records, the defendant requests the following:
  - a) This Court should order the state to disclose the criminal records of its witnesses well in advance of trial so as to allow defense counsel time to obtain the necessary copies of judgments of conviction. Defense counsel can not rely merely on a rap sheet or representations of the prosecutor. See Lewis v. Lane 832 F. 2d 1446 (7<sup>th</sup> Cir. 1987).
  - b) Any evidence that a prospective witness is under investigation by federal, state, or local authorities for any criminal conduct. Rule 15.1.
  - c) A copy of any federal or state probation *and the respective pre-sentence reports* of any prospective witness. Rule 15.1.
  - d) The results of any polygraph test administered to any potential state's witness. Carter v. Rafferty, 826 F.2d 1299, 1306-09 (3<sup>rd</sup> Cir. 1987); see U. S. v. Lynn, 856 F.2d 430, 432-33 (1<sup>st</sup> Cir. 1988) (reversible error not to allow cross-examination about "inconclusive" polygraph results).
- 7) **ALL PRIOR CONVICTIONS FOR A CRIME OF MORAL TURPITUDE**, if any, for use at any hearing for impeachment or increased punishment.
  - a) the State's witnesses;
  - b) the Defendant;
- 8) **ALL PRIOR BAD ACTS**, (Rule 15. 1(b)(7)), if any, the State will attempt to use at trial

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5. The prosecutor's duty to disclose prior felony convictions of his own witnesses is included as part of the Brady disclosure. See Giglio v. United States, 405 U.S. 150 (1972) (holding the prosecutor obligated to disclose information which lessens the credibility of his own witnesses). The information should include the cause number(s) and jurisdiction(s) of all pending cases, if any. In U.S. v. Kearns, 5 F.3d 1251(1993), the Court said: "If the government fails to disclose material impeachment evidence regarding government witnesses, then it violates Brady and the due process clause. Requested impeachment evidence is material if it raises a reasonable probability that the result of the proceeding would have been different. Good faith is irrelevant to a Brady violation."

to prove motive, intent or knowledge in its case-in-chief, or as impeachment evidence in its rebuttal case defendants, whether or not these acts resulted in an arrest and/or conviction. By "bad acts," the Defendant specifically refers to any alleged criminal conduct for which Defendant was suspected, whether or not resulting in conviction, dismissal or acquittal, and/or for which Defendant was investigated but no prosecution has yet resulted. For each bad act, Defendant requests:

- a. A detailed description of the nature of circumstances of each bad act;
- b. The date, location and approximate time of each bad act;
- c. Any and all reports written regarding the above noted prior bad acts;
- d. The names, addresses, present whereabouts, and telephone numbers of each witness to each such bad act. Rule 15. 1(b)(7), Rules 403, 404 (b), 608 (b), Arizona Rules of Evidence.

9) **EXPERTS:** the names, addresses, and telephone numbers of all "experts" who have examined the Defendant or any evidence in this case, together with the results (whether negative, positive, or inconclusive), of physical examinations and/or scientific tests, experiments or comparisons, including all written reports or statements made by them in connection with this particular case, including summaries of all orally made, which have not been transcribed statements. Rules 15.1 (b)(4). To include the following:

- a. An opportunity for the Defense to inspect, photograph, duplicate or copy any and all results or reports of physical or mental examinations, all reports maintained by D.P.S., which are in the possession, custody or control of the state or any agent thereof, including but not be limited to:
- b. The name, address, and telephone number of any such expert(s) conducting such tests;
- c. The names and addresses of any such persons consulted by any such expert(s) conducting such test;
- d. Any and all reports, notes, memoranda, handwritten or otherwise, relating to the method of analysis, computations, conclusions and results;
- e. Each experts' curriculum vitae
- f. For each such expert, the date, location, and name of all the hearings in which he/she testified as an expert in the last two years.
- g. A list of the names, addresses and current telephone numbers and location of all investigating personnel, including State or Federal law enforcement officials, agents, and informants who have talked to or met with Defendant from the date of the offense to present. United States v. Woods, 550 F.2d 435 (9th Cir. 1976); Massiah v. United States, 377 U.S. 201 (1964); Hoffa v. United States, 385 U.S. 293 (1966).

Prior to trial, the state must disclose any "*change of opinion*" or "*new conclusion*" its expert comes up with (post defense interview or post pre-trial hearing

testimony). Rule 15.6.

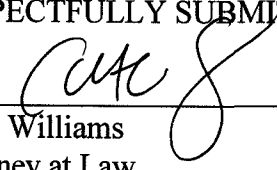
- 10) **ANY AGREEMENT**: oral or written, between the State (or agents of the State, including correction officials), or any other law enforcement official, and a third party (such as a witness or an expert witness), a co-defendant(s), snitch, or the alleged victim(s). The term "agreement" includes, but is not limited to any
- a) ***Quid Pro Quo***, in return for testimony or information;
  - b) ***Plea Agreement***, in return for testimony or information;
  - c) ***Cash Payment***, in return for testimony or information;
  - d) ***Motel Accommodations***, in return for testimony or information;
  - e) ***Meals Provided***, in return for testimony or information;
  - f) ***Case Dismissal***, in return for testimony or information;

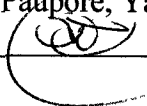
For each such individual, the state is requested to state what "consideration" or "promise of consideration" was given to the individual in return for their co-operation with the prosecution of the defendant, including agreements to withhold charges or dismiss charges against the person. U. S. v. Keogh, 391 F.2d 138 (2d Cir. 1968);

**This request includes hand written notes or tape recordings from any "free talks" with any witness, including a co-defendant, even if that person(s) is not listed as a witness in the state's disclosure.**

12. Any and all documents and/or files relating to the ***honesty, credibility, or integrity of any of the law enforcement personnel involved in any manner in this case***. This request specifically includes ***any disciplinary actions*** ever taken against any of the law enforcement personnel involved in any manner in this case. This request specifically including any files kept by any prosecuting agency on any of the officers.
- 13) **C.R.I.**: The identity of the "confidential reliable informant(s)," if any. Rule 15.1(b)(11).

RESPECTFULLY SUBMITTED this October 29, 2010

  
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Craig Williams  
Attorney at Law

Copies of the foregoing delivered this date to:  
Division 6, Judge of the Superior Court  
Jeff Paupore, Yavapai County Attorney's Office  
By:  \_\_\_\_\_